

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

United States of America,  
Plaintiff/respondent

V.

Lamalsikou Lowe (aka Lanalsikov Lowe),  
Defendant/petitioner

Case No.: 2:14-cr-0004-JAD-VCF

## Order granting petitioner's motion for an extension of time

[ECF No. 313]

In 2015, a jury found Lamalsikou Lowe guilty of one count of possession of a controlled substance with intent to distribute and one count of being a felon in possession of a firearm, and the Ninth Circuit Court of Appeals affirmed his conviction. Lowe then moved to vacate his sentence under 28 U.S.C. § 2255.<sup>1</sup> I denied his motion, declined to issue him a Certificate of Appealability (COA), and entered judgment.<sup>2</sup> Days later, Lowe moved for an extension of time to seek a COA from the Ninth Circuit.<sup>3</sup>

When a COA is denied in full, Ninth Circuit Rule 22-1(d) allows a petitioner/appellant to “file a request for a COA in the court of appeals within 35 days of the filing of a notice of appeal . . . or the district court’s denial of [the COA], whichever is later.” Because Lowe moved this court for an extension of time, I construe his motion as a request to extend the deadline for filing a notice of appeal. Rule 22-1(d) also directs that the notice of appeal must be timely filed under Federal Rule of Appellate Procedure 4(a), which permits a district court to extend the time to file a notice of appeal if the appealing party requests the extension within a specified window of time

<sup>1</sup> ECF No. 309.

<sup>2</sup> ECF Nos. 311–12.

<sup>3</sup> ECF No. 313; *see also* 28 U.S.C. § 2253(c)(1)(B) (allowing a petitioner to seek a COA from a court of appeals); Fed. R. App. P. 22(b)(1) (same).

1 after entry of judgment.<sup>4</sup> Because Lowe timely moved for an extension after I re-entered  
2 judgment, I grant his motion and give him 14 days from the date of this order to file a notice of  
3 appeal with this court.<sup>5</sup> Accordingly,

4 IT IS HEREBY ORDERED that Lowe's motion for an extension of time **[ECF No. 313]**  
5 **is GRANTED.** Lowe has **until February 13, 2019, to file a notice of appeal** with this court.  
6 He is cautioned that further extensions are not permitted.

7 Dated: January 30, 2019

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9 U.S. District Judge Jennifer A. Dorsey  
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23 <sup>4</sup> Fed. R. App. P. 4(a)(5)(A)(i).

<sup>5</sup> Fed. R. App. P. 4(a)(5)(C) (limiting the length of an extension of time for filing an notice of appeal).